

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Civil Citation No. 76186

George L Dival III
2327 Boston Street
Unit 6
Baltimore MD 21224

240 Burke Avenue

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on May 26, 2010, for a Hearing on a citation for violations of the Baltimore County Zoning Regulations (BCZR) section 408B; Baltimore County Code (BCC) section 13-4-201 (d), failure to cease illegal rooming and boarding house; failure to store trash in cans with lids on residential property zoned DR 5.5 known as 240 Burke Avenue, 21286.

On May 4, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Jeffrey Radcliffe issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$5,000.00 (five thousand dollars).

The Respondent failed to request a Code Enforcement Hearing and/or failed to appear after requesting a Hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a Code Enforcement Hearing or if the violator (Respondent) fails to appear after requesting a Hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on April 26, 2010 for removal of trash and debris, storage of garbage in cans with tight lids, cut and remove tall grass and weeds, and illegal rooming/boarding house, no more than 2 unrelated adults allowed in dwelling. This Citation was issued on May 4, 2010.

B. Photographs in the file taken April 26, 2010 show at least three garbage cans overflowing with bagged garbage, and no lids. Photographs taken May 4, 2010 show two metal garbage cans with lids, but the lids are not tightly closed; photographs also show bagged garbage on the porch in an open container with no lid. Inspector Jeff Radcliffe's notes in the file state that his re-inspection on May 24, 2010 found trash in cans without lids. This violates prohibitions against the accumulation of junk, trash and debris on residential property, and prohibitions against creation of possible harborage for rats. BCC Section 13-4-201, Section 13-7-309, Section 13-7-310.

C. A police report in the file from April 21, 2010 documents a police call for service on April 18, 2010 at approximately 0024 hours, responding to a complaint about a loud party and music. The officer heard loud music and wrote a citation for violation of applicable noise ordinance. The citation was issued to two residents of this property, Thomas Raymond Hepner and Sean Thomas Hughes. Inspector Radcliffe's notes in the file state that on April 26, 2010 he spoke to Kevin Deighan and was told there are four people living in the house and that none of them are related to each other: Kevin Deighan, Sean Hughes, Thomas Hepner, and Scott Carrol. Baltimore County's zoning regulations restrict the number of unrelated adults who can occupy a house for compensation. Because this is not the owner's domicile, the house can only be occupied by two unrelated adults absent a permit for a boarding- or rooming-house. BCZR Section 101.1; Section 408B. Based on the evidence presented, an illegal boardinghouse with more than two tenants has been operating at this location. This Citation will be enforced, and Respondent will be subject to additional Citation and civil penalty if the violation is not corrected.

D. Review of the file shows that a code enforcement citation was enforced for this property in May 2009 for improper storage of garbage and for junk and debris on the property. The property owner attended the Hearing and testified that he would make a weekly inspection of the property to ensure code compliance. Because the owner has failed to prevent repeated violation of code requirements for proper storage of garbage, this Citation will be enforced.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$5,000.00 (five thousand dollars).

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 3rd day of June 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer